

## REMARKS

This Paper is submitted in response to the Office Action mailed February 16, 2006. This Paper is filed within three months of the Office Action mail date, namely May 16, 2006. The Commissioner is hereby authorized to charge any additional fees to Deposit Account number 02-1818.

Claims 1-21 and 23-53 are currently pending in this application. Claim 22 has been canceled. Claims 54-120 were withdrawn as a result of a Restriction Requirement. Applicants intend to further prosecute the withdrawn claims in a divisional application.

Claims 1-34 and 48-53 were rejected under 35 U.S.C. §103(a) for allegedly being obvious over U.S. Patent No. 5,935,847 to Smith et al. (*Smith*) in view of U.S. Patent No. 6,759,245 to Toner et al. (*Toner*). Claims 36-46 were rejected under 35 U.S.C. § 103(a) over *Smith* in view of Toner and in further view of U.S. Patent No. 5,989,215 to Delmotte (*Delmotte*). Applicants respectfully disagree with and traverse these alleged rejections for the reasons set forth below.

*Smith*, *Toner*, and *Delmotte*, either alone or in combination, do not disclose or suggest a cell culture container having a gas permeable sidewall and a fibrin matrix layer on a portion of the interior sidewall surface as recited in the present claims. *Toner* teaches away from a cell culture container having a gas permeable sidewall. *Toner* discloses a cell culturing device with rigid impermeable container walls 50. *Toner*, col. 2 lines 39-45; col. 11 lines 27-41. *Toner* explicitly states that walls 50 are impermeable to both liquid and gas. *Toner*, col. 7 lines 54-59. As *Toner* discloses a cell culture container having impermeable container walls, *Toner* teaches away from the cell culture container having a gas permeable sidewall as recited in the present claims.

*Smith* has no disclosure or suggestion of a cell culture container with a fibrin layer on an interior sidewall surface as recited in the present claims. *Smith* is wholly silent with respect to a container having a fibrin layer. Indeed, *Smith* suggests a wholly polymeric container as the charge of *Smith's* container inner layer may be adjusted to promote cell growth. *Smith*, col. 6 line 66 through col. 7 line 19.

*Delmotte* fails to fulfill the deficiencies of either *Toner* and/or *Smith*. *Delmotte* has no disclosure whatsoever directed to a cell culture container. Rather, *Delmotte* discloses a fibrin delivery device.

*Toner's* teaching away is a *per se* demonstration of non-obviousness. *In re Dow Chemical Co.*, 837 F.2d 469 (Fed. Cir. 1988). Consequently, any combination with *Toner* is likewise *per se* non-obvious. *Smith* and *Delmotte* are each individually completely silent regarding a cell culture container having a fibrin layer. Therefore, no combination of *Toner*, *Smith*, and/or *Delmotte* discloses or suggests the subject matter recited in the present claims.

### **CONCLUSION**

In view of the foregoing remarks, Applicants submit that claims 1-21 and 23-53 are in a condition for allowance and respectfully request a notice of the same.

Respectfully submitted,

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